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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/741,853	12/22/2000	Adrian M. Kristiansen	P 269867 NOR-13169BA	8553
34845	7590	10/20/2005		
STEUBING AND MCGUINNESS & MANARAS LLP 125 NAGOG PARK ACTON, MA 01720			EXAMINER SIDDIQI, MOHAMMAD A	
			ART UNIT 2154	PAPER NUMBER

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/741,853	Applicant(s) KRISTIANSEN, ADRIAN M.	
	Examiner Mohammad A. Siddiqi	Art Unit 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-39 are presented for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Soha et al. (4,817,080) (hereinafter Soha).
4. As per claim 1, Soha discloses a method for monitoring a network (col 2, lines 14-18 and col 3, lines 14-19) comprising:
 - receiving at least one data packet (fetches the content of packet, col 7, lines 23-26);
 - reading an entry of a memory device (fetches, col 7, lines 23-26), the entry of the memory device containing both (50 fig 4) a first

statistical value and a second statistical value (maintains the statistics by counters, 50,56 fig 4, col 5, lines 22-37), wherein the entry is a single memory location (50, fig 4) of the memory device (maintains the statistics by counters, by col 5, lines 22-37), wherein the first statistical value includes a packet count, anal wherein the second statistical value includes a byte count (maintains the statistics by counters, 50,56 fig 4, col 5, lines 22-37 and col 7, lines 17-21, packet and byte counters);

determining a third statistical value based on at least one of a content of the at least one data packet, the first statistical value, and the second statistical value (maintains the statistics by counters, 50,56 fig 4, col 5, lines 22-37 and col 7, lines 17-21, packet and byte counters); and

Storing the determined third statistical value in the entry of the memory device (lookup table, 50,56 fig 4, col 7, lines 30-40, address of the counter must be incremented).

5. As per claim 2, Soha discloses at least one data packet contains a set of data bits, wherein the first statistical value includes a count of the received at least one data packet, and wherein the second statistical value includes a count of a subset of data bits of the received at least one data packet (50,56 fig 4, col 7, lines 41-46).

6. As per claim 3, Soha discloses storing (56, fig 4) the determined third statistical value in the entry of the memory device overwrites one of the first statistical value and the second statistical value (maintains the statistics by counters, 50,56 fig 4, col 5, lines 22-37).

7. As per claim 4, Soha discloses the at least one data packet comprises at least one of SONET, ATM, Ethernet, 14DLC, PPP, IP, TCP, and UDP data packet (Ethernet, col 3, lines 63)

8. As per claim 5, Soha discloses the third, statistical (lookup table, 56, fig 4) value comprises updates to at least one of the first statistical value and the second statistical value (col 9, lines 25-27).

9. As per claim 6, Soha discloses the third statistical value updates at least one of the first statistical value and the second statistical value by at least one of incrementing and decrementing the first statistical value and the second statistical value, respectively, by a value (updates the counters col 9, lines 25-27 and maintains the statistics by counters, 50,56 fig 4, col 5, lines 22-37).

10. As per claim 7, Soha discloses *the third* statistical value updates at least one of the first statistical value and the second statistical value by adding a value to the first statistical value and the second statistical value, respectively (updates the counters col 9, lines 25-27 and maintains the statistics by counters, 50,56 fig 4, col 5, lines 22-37).

11. As per claim 8, Soha discloses the value comprises a negative value (negative comparison anticipates the negative value, col 3, lines 46-50).

12. As per claim 9, Soha discloses the entry of the memory device is associated with the received data packet (50.56, fig 4)

13. As per claim 10, Soha discloses the subset of data bits of the received data packet comprises 8 data bits of the received data packet (8 bits, 50, fig 4).

14. As per claim 11, Soha discloses the third statistical value updates at least one of the first statistical value and the second statistical value by correcting an error (col 3, lines 67-68) in the at *least* one of the *first* statistical value and the second statistical value (maintains the statistics by counters, 50,56 fig 4, col 5, lines 22-37).

15. As per claims 12 and 23, claims are rejected for the same reasons as claim 1, above.

16. As per claims 13 and 24, claims are rejected for the same reasons as claim 2, above.

17. As per claims 14 and 25, claims are rejected for the same reasons as claim 3, above.

18. As per claims 15 and 26, claims are rejected for the same reasons as claim 4, above.

19. As per claims 16 and 27, claims are rejected for the same reasons as claim 5, above.

20. As per claims 17 and 28, claims are rejected for the same reasons as claim 6, above.

21. As per claims 18 and 29, claims are rejected for the same reasons as claim 7, above.

22. As per claims 19 and 30, claims are rejected for the same reasons as claim 8, above.

23. As per claims 20 and 31, claims are rejected for the same reasons as claim 9, above.

24. As per claims 21 and 32, claims are rejected for the same reasons as claim 10, above.

25. As per claims 22 and 33, claims are rejected for the same reasons as claim 11, above.

Claim Rejections - 35 USC § 103

26. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

27. Claims 34-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soha et al. (4,187,080) (hereinafter Soha) in view of Wilford et al. (6,687,247) (hereinafter Wilford).

34. As per claim 34, Soha does not disclose comprising reading said single memory location following said storing, and, in the event that said third statistical value comprises a negative value, writing a predetermined value to said single memory location. However, Wilford discloses reading said single memory location following said storing (packets arrived at the PLIM interface are first received and buffered, col 27, lines 55-65), and, in the event that said third statistical value (packet and byte count statistics, col 28, line 13) comprises a negative value (if the count goes negative, col 47, lines 39-41), writing a predetermined value to said single memory location (all the counters should saturate and clear, col 52, lines 43-51 and col 15, lines 19-22, CAR actions). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Soha With Wilford because Wilford's use of statistical module to determine the network traffic would provide Soha's system the robust Statistical module to monitor the network traffic.

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28. As per claim 34, claim is rejected for the same reasons as claim 34, above. In addition Wilford discloses predetermined value comprises all zeros (all the counters should saturate and clear, col 52, lines 43-51 and col 15, lines 19-22, CAR actions).

29. As per claim 36, the claim is rejected for the same reasons as claim 34, above.

30. As per claim 37, the claim is rejected for the same reasons as claim 35, above.

31. As per claim 38, the claim is rejected for the same reasons as claim 34, above.

32. As per claim 39, the claim is rejected for the same reasons as claim 35, above.

Response to Arguments

33. Applicant's arguments filed 08/03/2005 have been fully considered but they are not persuasive, therefore rejections to claims 1-39 is maintained.

34. In the remarks applicants argued that:

Argument: Soha does not disclose a single memory device containing packet and byte counters.

Response: Soha discloses a single memory device-containing packet and byte counters (buffer section is single memory device contains data and statistical value, 50 fig 4).

Argument: Soha does not disclose a method for monitoring a network comprising: receiving at least one data packet; reading an entry of a memory device, the entry of the memory device containing both a first statistical value and a second statistic value, wherein the entry is a single memory location of the memory device, wherein the first statistical value includes a packet count, anal wherein the second statistical value includes a byte count; determining a third statistical value based on at least one of a content of the at least one data packet, the first statistical value, and the second statistical; and storing the determined third statistical value in the entry of the memory device.

Response: Soha discloses a method for monitoring a network (col 2, lines 14-23 and col 3, lines 14-19) comprising: receiving at least one data packet (fetches the content of packet, col 7, lines 23-26); reading an entry of a memory device (fetches, col 7, lines 23-26), the entry of the memory device containing both (buffer section is single memory device contains data and statistical value, 50 fig 4) a first statistical value and a second statistic value (maintains the statistics by counters, 50,56 fig 4, col 5, lines 22-37), wherein the entry is a single memory location (50, fig 4) of the memory device (maintains the statistics by counters, by col 5, lines 22-37), wherein the first statistical value includes a packet count, anal wherein the second statistical value includes a byte count (maintains the statistics by counters, 50,56 fig 4, col 5, lines 22-37 and col 7, lines 17-21, packet and byte counters); determining a third statistical value based on at least one of a content of the at least one data packet, the first statistical value, and the second statistical value (maintains the statistics by counters, 50,56 fig 4, col 5, lines 22-37 and col 7, lines 17-21, packet and byte counters); and storing the determined third statistical value in the entry of the memory device (lookup table, 50,56 fig 4, col 7, lines 30-40, address of the counter must be incremented).

35. The Examiner takes note the above Applicant's remark; however, Applicant's remark could not be imported into the claim.

36. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Soha discloses a single memory device containing packet and byte counters (buffer section is single memory device contains data and statistical value, 50 fig 4). Wilford discloses reading said single memory location following said storing (packets arrived at the PLIM interface are first received and buffered, col 27, lines 55-65), and, in the event that said third statistical value (packet and byte count statistics, col 28, line 13) comprises a negative value (if the count goes negative, col 47, lines 39-41), writing a predetermined value to said single memory location (all the counters should saturate and clear, col 52, lines 43-51 and col 15, lines 19-22, CAR actions). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Soha With Wilford because Wilford's use of statistical module to determine the network traffic would provide Soha's system the robust Statistical module to monitor the network traffic.

Conclusion

37. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

38. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

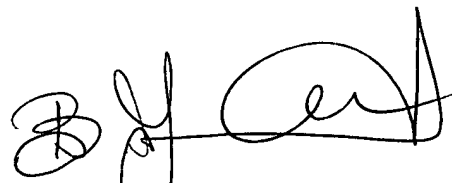
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad A. Siddiqi whose telephone number is (571) 272-3976. The examiner can normally be reached on Monday -Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A. Follansbee can be reached on (571) 272-

3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MAS



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PRIMARY EXAMINER